

## Document Status: Draft Update

### Students

#### 7:20 Sexual Harassment and Sexual Misconduct of Students Prohibited

Oak Park Elementary School District 97 is committed to protecting our students from sexual harassment and to maintaining a safe and secure educational environment that promotes the dignity and mutual respect of all students. Every student has a right to learn without encountering unwanted verbal and physical contact and to be communicated with respectfully and without sexually harassing language and/or conduct that impacts their ability to learn. [PRESSPlus1](#)

The District is committed to educating its students in an age-appropriate manner about how to recognize and respond to sexual harassment so that they are equipped with the skills and tools they need to support and teach each other about acceptable behavior. Each building will provide students with lessons and programs regarding the prevention of sexual harassment and unwanted touching at a level appropriate for their age. The District will empower students to value their body and their well-being so they understand their right not to be exposed to unwanted verbal or physical sexual conduct and also so that they do not feel shamed or otherwise alienated as a result of typical adolescent emotional and physical development.<sup>1</sup>

The District is also committed to ensuring that the students know how to report sexual harassment, and will make sure that there are staff members at each building who have the knowledge and training necessary to serve as effective and impactful resources should any student share with them that they have experienced sexual harassment. All teachers and staff shall be trained to take each and every reported incident seriously and comply with the reporting procedures. Our students' emotional well-being is the priority and we recognize that the adult response to a reported incident is the key to making the reporting student comfortable and safe in the process.

The District acknowledges that students who report incidents of sexual harassment, as well as students or adults who are alleged to have engaged in harassing activity, may experience prejudice or bias in conjunction with the reporting process. With this in mind, the District will develop a process, procedures and training to ensure the equitable implementation and enforcement of this policy. The District will also designate a building resource person at each school who will be responsible for supporting students with the reporting process and assisting the District's Title IX Coordinator with the review of allegations of sexual harassment. These building resource individuals will be trained on this policy, the review protocol and how to effectively respond to complaints of sexual harassment. All District staff will be trained on how to respond to an initial complaint and connect the person who allegedly experienced the harassment and/or the person who allegedly engaged in the harassment to the designated building resource person. The type of training staff members receive will be based, in part, on their specific role in the District and the level of interaction they have with students. If the person alleged to have engaged in the harassment is a student, that student's family will be contacted. If the person alleged to have engaged in the harassment is an employee, there are specific District policies, protocols and procedures for employees that will be followed.

The District will seek to ensure that reviews of incidents of sexual harassment are conducted in conjunction with its commitment to equity and restorative practices, are age appropriate, and are aligned with the District's goal of creating and maintaining a culture and climate in its schools that is welcoming, nurturing, supportive and inclusive.

#### Definition

Sexual harassment of students is prohibited. Any person, including a student, District employee or agent, engages in sexual harassment whenever he or she makes sexual advances, requests sexual favors, and/or engages in other verbal or physical conduct, including sexual violence, of a sexual or sex-based nature, imposed on the basis of sex, that:

1. Makes submission to or rejection of such conduct the basis for academic decisions affecting a student; or
2. Is severe, pervasive, and/or persistent, and has the purpose or effect of:
  - a. Substantially interfering with a student's educational environment; or
  - b. Denying or limiting a student's ability to participate in or receive the educational aids, benefits, services, or opportunities of the district's educational programs.

In the case of this policy, sexual harassment can occur adult to student, student to adult, student to student, male to female, female to male, male to male and female to female. It can also be experienced by individuals who are gender variant, non-conforming or neutral.

A hostile educational environment is created when conduct by an individual is so severe, pervasive and/or persistent that it substantially interferes with a student's educational environment or denies or limits an individual's ability to participate in or receive the benefits, services or opportunities of the District's educational programs. In determining whether a hostile

environment has been created, the conduct in question will be considered from both a subjective and an objective perspective of a reasonable person in the alleged student's position, considering all the circumstances.

Examples of sexual harassment include unwanted touching, crude jokes or pictures, teasing related to sexual characteristics, sexual violence, sharing or requesting sexual images, and spreading false statements about a person's sexual activities, including if these activities occur electronically or online.<sup>2</sup> Sexual harassment does not include the: (a) expression of gender or sexual orientation or preference, or (b) consensual, non-disruptive display of affection during non-instructional time. The term sexual violence includes a number of different acts. Examples of sexual violence include, but are not limited to, rape, sexual assault, sexual battery, sexual abuse, sexual coercion, and indecent exposure.

### Jurisdiction

This policy applies to students, faculty, staff, or third-parties, regardless of gender, sexual orientation or gender-identity, whenever the misconduct occurs with a student:

- A. On school District property; or
- B. Off school District property if:
  - 1. The conduct was in connection with a District or District-recognized program or activity; or
  - 2. The conduct has the effect of creating a hostile environment for a student, staff member or third-party member of the school District community while on school District property or in connection with a District or District-recognized program or activity.

All members of the school District community, including students, parents/guardians, school employees, and community members, are encouraged to report claims or incidences of sexual harassment, or any other prohibited conduct of a sexual nature, to the Title IX Coordinator, Building Principal, Assistant Principal, designated building resource person, or any other District employee. A student has the right to report to a person of their choosing. Complaints will be kept confidential to the extent possible given the need to conduct a review, and subject to the additional exceptions noted below. Students who make good faith complaints will not be disciplined.

If an alleged incident does not meet the definition of sexual harassment above, an administrator shall determine if the activity constitutes a violation of the student handbook and will follow the procedures contained therein. If an alleged incident may meet the definition of sexual harassment above, it will be referred for a review of the conduct described.

The Superintendent shall insert into this policy the name, address, and telephone number of the District's current Title IX Coordinator.

### **Title IX Coordinator:**

Gina Herrmann  
260 Madison Street  
Oak Park, IL 60302  
[gherrmann@op97.org](mailto:gherrmann@op97.org)  
708-524-3000

### Review of Complaint

Upon receiving a report of an incident of sexual harassment, the Title IX Coordinator, Building Administrator, designated building resource person, or other designee (the "designee") will conduct a review of the complaint or appoint a qualified person to undertake the review on his or her behalf. The designee shall ensure the review is confidential and equitable and that both parties have an equal opportunity to present evidence and witnesses, including submission of relevant questions to the designee for consideration. If the complainant, the person who allegedly experienced the harassment and/or the person who allegedly engaged in the harassment is a student, the designee will notify his or her parent(s)/guardian(s) that they may attend any meetings related to the complaint in which their child is involved.

The designee will inform, at regular intervals, the person(s) filing a complaint under this policy about the status of the review. Within 30 school business days of the date the complaint was filed, the designee shall complete the review. The designee may request an extension of time.

### Confidentiality

The identity of the complainant, the person who allegedly engaged in the harassment, and the person who allegedly experienced the harassment will not be disclosed except: (1) as required by law or any collective bargaining agreement or (2) as necessary to fully conduct a review of the complaint, or (3) as authorized by the complainant and/or the person who allegedly experienced

the harassment or by the parent/guardian if the complainant and/or the person who allegedly experienced the harassment is a student.

The identity of any student witnesses will not be disclosed except: (1) as required by law or any collective bargaining agreement, or (2) as necessary to fully conduct a review of the complaint, or (3) as authorized by the parent/guardian of the student witness.

### Interim Measures

During the course of a review of a complaint, the District will remain ever mindful of necessary interim measures to ensure the safety and well-being of the complainant, the person who allegedly experienced the harassment and/or the person who allegedly engaged in the harassment. Students shall not be retaliated against by other students, teachers, administrators, or other school staff for filing a sexual harassment complaint, reporting sexual harassment, being the subject of a sexual harassment complaint, or participating in a review of conduct that has been alleged to be sexual harassment. The District will also:

- Assist the involved parties in accessing available community and school supports, such as advocacy services, academic support, counseling services, disability, health, or mental health services, and legal advocacy agencies;
- Provide other safety measures and support for both parties, which could include the District implementing a no-contact order, changing class schedules or adjustments for assignments or tests for either party;
- Inform the complainant or the person who allegedly experienced the harassment and his or her parents/guardians of the right to report a crime to law enforcement simultaneously with filing a complaint pursuant to this policy – and provide the student with assistance if he or she wishes to do so.

The District may request, but will not require, that the complainant, the person who allegedly experienced the harassment and/or the person who allegedly engaged in the harassment participate in a restorative process. The District will also not require a complainant and/or the person who allegedly experienced the harassment to participate in any review of the alleged sexual harassment or in a disciplinary proceeding against a student.

### Decision

Within 5 school business days after completion of the review of the complaint, the Title IX Coordinator shall mail his or her written decision to the complainant (“Determination Letter”), the person who allegedly experienced the harassment and/or the person who allegedly engaged in the harassment by first class U.S. mail. All decisions shall be based upon the preponderance of evidence standard.

Within 10 school business days after receiving the Determination Letter, the complainant, the person who allegedly experienced the harassment and/or the person who allegedly engaged in the harassment may appeal the decision to the Superintendent by making a written request to the Title IX Coordinator. The Title IX Coordinator shall promptly forward all materials relative to the complaint and appeal to the Superintendent. Within 30 school business days, the Superintendent shall affirm, reverse, or amend the Title IX Coordinator’s decision or direct the Title IX Coordinator to gather additional information and shall inform the complainant, the person who allegedly experienced the harassment and/or the person who allegedly engaged in the harassment of the decision (“Final Decision”). In the event that the final determination and decision is a finding that the person who allegedly engaged in the harassment did not do so and is not in violation of this Policy, the Title IX Coordinator’s report summarizing the review conducted and the Determination Letter and/or Final Decision issued will clearly indicate no finding in an effort to protect the person alleged to have engaged in the harassment from unintended consequences that may arise from the nature of the allegations.

The failure to strictly follow the timelines in this review/grievance procedure shall not prejudice any party.

### Notice of Policy

The District’s goal is to make sure that every student, parent/guardian, teacher, and staff member is aware of and has access to this Policy. The Superintendent shall use his or her best efforts to inform students, staff members and families of this policy through a variety of means that include, but are not limited to, the student and family handbooks, the District’s websites, electronic and print communications, and staff training. Notice of this Policy shall include in-person conversations developed with the students and designated building leadership at the middle schools. Notice shall also include:

- A. An executive summary of the Policy;
- B. A reporting flow chart for students and parents/guardians;
- C. Resources that are available to those who have made a complaint and those against whom a complaint has been made; and
- D. Information about general discipline procedures for instances when an incident does not rise to the level of sexual harassment.

### Responding to Sexual Harassment

In response to a finding of sexual harassment, the District will take any and all appropriate actions to remedy violations of this

policy. Any District employee who, after a review, is determined by a preponderance of the evidence to have engaged in conduct prohibited by this policy will be subject to disciplinary action up to and including discharge in accordance with policies 7:12 (Ensuring Racial and Educational Equity), 5:200 (Terms and Conditions of Employment and Dismissal), 5:240 (Suspension) and 5:290 (Employment Termination and Suspensions).

Any District student who is determined, after a review, to have engaged in conduct prohibited by this policy will be subject to disciplinary action that includes, but is not limited to, suspension and expulsion that is consistent with policy 7:190 (Student Behavior), as well as policies 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:200 (Suspension Procedures), 7:210 (Expulsion Procedures), 7:230 (Misconduct by Students with Disabilities) and the district's equity policy (Ensuring Racial and Educational Equity), 5:200. For incidents in which a student is the person who allegedly engaged in the harassment, the District will take a student's age into account when conducting its review of the conduct complained of, and will respond to those incidents through the lens of its commitment to equity and restorative practices.

If a student or employee is determined to have engaged in conduct prohibited by this policy following the completion of a review by the District, then any corresponding actions taken against that student or employee shall be instituted in order to prevent the recurrence of any sexual harassment or sexual violence and remedy the effects of such action on the complainant, the person who allegedly experienced the harassment or others. Any person making a knowingly false accusation regarding prohibited conduct will likewise be subject to disciplinary action up to and including discharge with regard to employees, or up to and including suspension and expulsion with regard to students.

#### Records of Reviews of Complaints

Determination Letters and Final Decisions, whether there is a finding of a violation or not, shall become part of the student's temporary record and shall, therefore, be maintained for five (5) years from the date of the student's withdrawal or transfer from the District. These documents, and all others associated with the review of the complaint, shall not be forwarded to subsequent schools unless such records are specifically requested.

LEGAL REF.:

[20 U.S.C. §1681](#) et seq., Title IX of the Educational Amendments.

[34 C.F.R. Part 106](#).

[105 ILCS 5/10-20.12](#), [10-22.5](#), [5/27-1](#), and [5/27-23.7](#).

[775 ILCS 5/1-101](#) et seq., Illinois Human Rights Act.

[23 Ill.Admin.Code §1.240](#) and [Part 200](#).

[Davis v. Monroe County Board of Education](#), 119 S.Ct. 1661 (1999).

[Franklin v. Gwinnett Co. Public Schools](#), 112 S.Ct. 1028 (1992).

[Gebser v. Lago Vista Independent School District](#), 118 S.Ct. 1989 (1998).

[West v. Derby Unified School District No. 260](#), 206 F.3d 1358 (10th Cir., 2000).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:200 (Terms and Conditions of Employment and Dismissal), 5:240 (Suspension), 5:290 (Employment Termination and Suspensions), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen and Student Dating Violence Prohibited), 7:190 (Student Behavior), 7:200 (Suspension Procedures), 7:210 (Expulsion Procedures), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities) and 7:12 (Ensuring Racial and Educational Equity)

Adopted: September 24, 2019

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#### **PRESSPlus Comments**

PRESSPlus 1. This policy is unique to the district. IASB Policy Services does not conduct legal compliance reviews of custom policy language for PRESS subscribers. Please consult the author and the PRESS sample, available at PRESS Online by logging in at [www.iasb.com](http://www.iasb.com), to determine necessary updates. We recommend that the board attorney review it for compliance with updated Title IX regulations. **Issue 105, August 2020**

#### **PRESS Footnotes**

1. Due to the age of students attending Oak Park Elementary School District they do not have the capacity to consent; therefore, conduct of a sexual nature discussed in this policy is inherently unwelcome due to their age.

2. Such is inclusive of sexting. The term “sexting” is defined as the practice of sending nude or semi-nude pictures by cell phone or other electronic media, including sending or receiving a sexualized text (‘sext’) message from a minor. A minor who engages in sexting, or a recipient of a sext message, may be in violation of Illinois law and subject to criminal penalties.